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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/609,450	06/27/2003	James D. Balan	BALJ09A	6601

7590 02/25/2004

RICHARD L. MILLER
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EXAMINER

HAYES, BRET C

ART UNIT	PAPER NUMBER
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3644

DATE MAILED: 02/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/609,450

Applicant(s)

BALAN, JAMES D.

Examiner

Bret C Hayes

Art Unit

3644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>20030627</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

2. Claims 3, 4, 12 – 14 and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Claim 3 recites the limitations "the first end" in line 4 and "said first end" in line 5. There is insufficient antecedent basis for these limitations in the claim.

4. Claim 4 recites the limitations "the second end" in line 1 and "said second end" in line 6. There is insufficient antecedent basis for these limitations in the claim.

5. Claims 12 – 14 and 16 recite the limitation "an associated retractor" in lines 3, 3, 4 and 3, respectively, which is unclear as the base claim (claim 8) recites an associated retractor in line 5 and it is not understood whether this recitation is a separate and distinct associated retractor or the retractor of the base claim.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1 – 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peterson (4,328,767).

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8. Re – claim 1, Peterson discloses the invention substantially as claimed except for a pair of retractors **15**. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use more than the one retractor disclosed by Peterson, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St, Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

9. Re – claim 2, Peterson discloses a slender, elongated collar **10**.

10. Re – claim 3, Peterson discloses a pair of ends, a ring **13** and the method of attaching.

11. Re – claim 4, Peterson discloses the claimed invention including a buckle **11**, except for the use hook and loop fasteners. It would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute hook and loop fasteners for a buckle, since the equivalence of hook and loop fasteners and buckles for their use in the fastening art and the selection of any known equivalents to buckles would be within the level of ordinary skill in the art.

12. Re – claim 5, Peterson disclose a slender, elongated leash **16**.

13. Re – claim 6, Peterson discloses the leash having a pair of ends, but does not disclose each end being operatively connected to the pair of retractors. As applied to claim 1, the duplication of parts would have been obvious to one having ordinary skill in the art at the time the invention was made. Further, it would have been obvious to one having ordinary skill in the art at the time the invention was made to so arrange the duplicated parts, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japiske*, 86 USPQ 70.

14. Re – claim 7, in view of claims 1 and 6 above, Peterson discloses the claimed invention.

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15. Re – claim 8, in view of claims 1 and 6 above, Peterson further discloses the retractor **15** comprising a housing **30**, a retracting mechanism **50** attached to an end of the leash **16**.

16. Re – claim 9, Peterson discloses the housing **30** being cylindrically shaped and extending generally normal to the collar **10**.

17. Re – claim 10, Peterson discloses a slit **40** so arranged.

18. Re – claims 11 – 17, Peterson discloses the claimed invention except for the structure of the retracting mechanism. It would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute any known retracting mechanism with the mechanism disclosed by Peterson, since the equivalence of retracting mechanisms for their use in the tethering art and the selection of any known equivalents to retracting mechanisms would be within the level of ordinary skill in the art.

Conclusion

Any inquiry concerning this communication should be directed to Bret Hayes at telephone number (703) 306 – 0553. The examiner can normally be reached Monday through Friday from 5:30 am to 3:00 pm, Eastern Standard Time.

If attempts to contact the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Jordan, can be reached at (703) 306 – 4159. The fax number is (703) 872 – 9306.

bh

2/22/04


PETER M. POON
SUPERVISORY PATENT EXAMINER